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Excise Taxes for 1981

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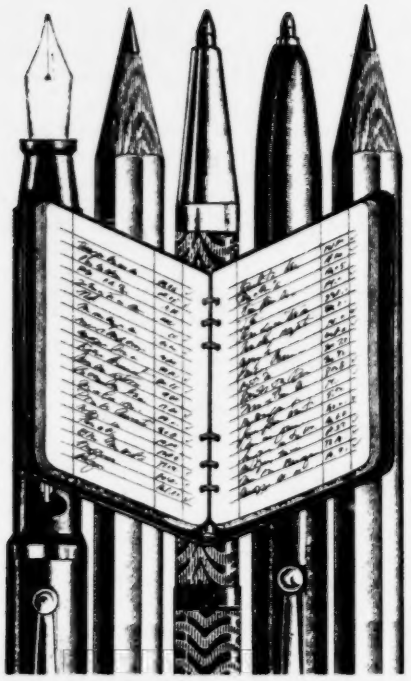

You can get the tax forms and publications referred to in this publication by writing to the IRS Forms Distribution Center listed in your Form 1040 or 1040A Instructions. Or, you can call the Tax Information number in the phone book listed under "United States Government, Internal Revenue Service."

Introduction

Federal excise taxes are imposed on the manufacture or sale of certain articles, on certain transactions, on certain occupations, and on the use of certain items.

This publication covers the excise taxes for which you may be liable during 1981. It discusses only the taxes that are reported on Form 720, *Quarterly Federal Excise Tax Return.*

You may be able to get a credit or refund for the excise taxes on gasoline, diesel fuel, special motor fuel, aviation fuel, or lubricating oil. For information see Publication 378, *Fuel Tax Credits.*

Proposed legislation. As this publication went to press, Congress was considering legislation that would affect various excise tax areas. Included in the affected areas are tax rates that were scheduled for reduction in 1980 as well as taxes that were scheduled for expiration in 1980. See the revision of Form 720 for quarters ending on and after December 31, 1980, for up-to-date information.

Form 720 Excise Taxes

Form 720 is used to report four types of excise taxes:

1) Facilities and services:
- Toll telephone service 1
- Teletypewriter exchange service 2
- Local telephone service 2
- Transportation of persons by air 2
- International air travel facilities 3
- Transportation of property by air 3
- Policies issued by foreign insurers 4

2) Manufacturers:
- Coal 5
- Truck chassis and bodies 6
- Truck-tractors 6
- Truck trailer chassis and bodies 6
- Fishing equipment 6
- Bows and arrows 6
- Firearms 6
- Shells and cartridges 7
- Gasoline 7
- Alcohol sold as, but not used as, fuel 7
- Lubricating oil 7
- Tires, tubes, and tread rubber 8
- Cars that do not meet fuel economy standards 8

3) Retail and use taxes:
- Diesel fuel 8
- Special motor fuels 8
- Fuel used on inland waterways 9
- Noncommercial aviation fuel 9

4) Crude oil windfall profit:
- Quarterly return 10
- Annual return 10

Other Excise Taxes

There are, in addition to the taxes reportable on Form 720, a number of other excise taxes. You should be aware of the filing requirements and obtain additional information if any of these taxes appear to apply to your activities.

Some other principal forms and the taxes reported on them are: Form 11, an occupational tax return for various occupations such as brewers, wholesale and retail dealers in beer, wine or liquor, manufacturers of stills, manufacturers, importers and dealers in firearms; Form 11C, a tax return and application for registry-wagering; Form 730, a tax return on wagering; Form 2290, a highway use tax return on trucks and buses. All these forms have their own instructions. The taxes reported on Form 2290 are discussed in considerable detail in Publication 349, *Federal Highway Use Tax on Trucks, Truck Tractors, and Buses.*

Also, there are excise taxes relating to private foundations and employee benefit plans. For more information concerning the excise taxes relating to private foundations, see Publication 578, *Tax Information for Private Foundations and Foundation Managers.* The Employee Retirement Income Security Act of 1974 imposed excise taxes relating to failure to meet minimum funding standards, excess contribution for self-employed individuals, excess contribution to individual retirement accounts, certain individual retirement annuities, certain retirement bonds, certain accumulations in individual retirement accounts and prohibited transactions. For more information concerning these excise taxes, contact your District Director.

Facilities and Services

If you are in the business of furnishing communication facilities or services or transportation of persons or property by air for which you receive any payment on which a tax is imposed, you are liable for the collection and remittance of that tax and for the filing of returns.

Ordinarily, the ***tax attaches*** at the time payment is made for the taxable service or facility.

Communications

There is a tax on amounts paid for toll telephone service, teletypewriter exchange service, and local telephone service. The tax rate is scheduled to decrease from 2% in 1980 to 1% in 1981. However, as this publication went to press, Congress was considering legislation to extend the 2% rate. For more information, see Form 720 revised for quarters ending on and after March 31, 1981.

The person paying for the service or facility is liable for the tax, and the person receiving the payment is required to collect the tax and file returns.

Toll telephone service means a telephonic quality communication for which a toll charge is made that varies in amount with the distance and the elapsed transmission time of

each individual communication, but only if the charge is paid within the United States. It also includes WATS (wide area telephone service). This is a long distance service through which the subscriber is entitled to make unlimited calls (sometimes limited as to the maximum number of hours) within a certain area for a flat charge. Microwave relay service used for the transmission of television programs and not for telephonic communication is not a toll telephone service and is not subject to the communication tax.

Teletypewriter exchange service means access from a teletypewriter or other data station to a teletypewriter exchange system, and the privilege of intercommunication by that station with substantially all persons having teletypewriter or other data stations in the same exchange system, to which the subscriber is entitled upon payment of a charge or charges.

Local telephone service means the access to a local telephone system and the privilege of telephonic quality communication together with facilities or services provided with this service.

Computation of tax. If a bill is rendered to the taxpayer for local or toll telephone service, the amount on which the tax is based is the sum of all charges for local or toll telephone service included in the bill, except that if the person rendering the bill groups individual items for billing and tax computation purposes, the amount on which the tax is based with respect to that group is the sum of the individual items within that group. The tax on the remaining items not included in any group is based upon the charge for each item separately. In addition, if state or local taxes are stated separately on the taxpayer's bill they are not included in the tax base for computing the tax.

Payment made for toll telephone service in coin-operated phones. If the tax on toll telephone service is paid by inserting coins in coin-operated telephones, the tax will be computed to the nearest multiple of 5 cents, except that whenever the tax is midway between 5 cent multiples, the next higher multiple applies.

Exempt communications services include the following:

Private communication service. An internal communication service is not exempt (and thus not a private communication service) unless a separate charge is made for such service. A communications system with direct inward and outward dialing, set up for a single subscriber (such as a Centrex type PBX system) that does not include any internal service for which a separate charge is made is subject to tax. Charges in connection with a Centrex, PBX, and other similar systems for dual use accessorial equipment, are not subject to the tax provided the charge for accessory-type service is stated separately from the charge for the basic system and the accessory functions, in whole or in part, in connection with intercommunication among the subscriber's stations. However, a connecting arrangement with a landline telephone is subject to tax.

Amounts paid for a private line, an answering service, and a one-way paging or message service that do not provide access to a local telephone system and the privilege of telephonic communication as part of the local telephone system are not subject to tax.

Mobile radio telephone service. Payments made for a two-way radio service that provides no access to a local telephone system are not subject to the tax.

Coin-operated telephones. Payments made for services by inserting coins in coin-operated telephones available to the public are not subject to tax for local telephone service, or for toll telephone service for which the charge is less than 25 cents. But, if the coin-operated telephone service is furnished for a guaranteed amount, the amount paid under the guarantee plus any fixed monthly or other periodic charge will be subject to the tax.

Telephone-operated security systems. If telephones are used only to originate calls to a limited number of telephone stations for security entry into a building, the amounts paid to the telephone company for this service are not subject to the tax. In addition, any communication equipment which is rented for use in the security system is not subject to the tax.

News services and radio broadcasts of news and sporting events are exempt from the tax; however, local telephone and related charges are not exempt. This exemption applies to payments received for messages from one member of the news media to another member (or to or from their bona fide correspondents). The services must deal exclusively with the collection or dissemination of news for the public press or the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press. In addition, the charge for these services or facilities must be billed in writing to the person paying for the service and that person must certify in writing that the services are utilized. However, toll telephone service other than WATS in connection with celebrities or special guests on talk shows is subject to tax.

Installation charges. No tax shall apply to payments received for the installation of any instrument, wire, pole, switchboard, apparatus or equipment.

Common carriers and communications companies. The tax on toll telephone service does not apply to amounts paid for certain communications facilities used by common carriers, telephone and telegraph companies, or radio broadcasting stations or networks in the conduct of their business. A common carrier for this purpose is one holding itself out to the public as engaged in the business of transportation of persons or property from place to place for compensation, offering its services to the public.

Nonprofit hospitals. The tax does not apply to telephone services furnished to nonprofit hospitals exempt from income tax or to amounts paid by such hospitals to provide local telephone service in the residences of its personnel who must be reached during their off-duty hours.

International organizations and the American Red Cross. No tax will be imposed on amounts paid for communication services furnished to an international organization or to the American National Red Cross.

Federal, state, and local government. The tax does not apply to any payment received for communication service to the government of the United States, or the government of any state, any political subdivision thereof, or the District of Columbia.

Nonprofit educational organization. The tax on communications also does not apply to payments received for services and facilities furnished to a nonprofit educational organization with a regular faculty, curriculum and student body.

Transportation by Air

Persons by air. Amounts paid for taxable transportation of persons by air, including amounts paid for related seating or sleeping accommodations, were subject to a tax of 8% through September 1980. After September 30, 1980, the tax rate was reduced to 5%. **Note:** As this publication went to press, Congress was considering reinstating the 8% rate. For more information, see Form 720 revised for quarters ending on and after December 31, 1980.

Amounts paid for ***transportation*** include charges for layover or waiting time and movement of aircraft in deadhead service. The mere fact that aircraft such as helicopters may not use public or commercial airports in taking off and landing has no bearing on the question of liability for the tax. The tax applies to amounts paid outside the United States ***but only*** for taxable transportation that begins and ends in the United States. Certain transportation that takes place entirely outside the United States (and the 225-mile zone, discussed later), and that meets specified tests, is not subject to the tax.

The person paying for taxable transportation is liable for the tax and, ordinarily, the person receiving the payment must collect the tax and file the returns. However, the tax must be collected by the person furnishing the initial tranportation provided for under a prepaid order, exchange order, etc., paid for outside the United States.

A travel agency that is an independent broker licensed by the ICC and sells tours on aircraft that it charters is required to collect the transportation tax, file the returns, and pay the tax. However, a travel agency that sells tours as the agent of an airline must collect the tax and remit it to the airline for the filing of returns and for the payment of the tax.

A fine for improper display of the tax on the ticket may be as much as $100.00. Improper display is failure to show both fare and tax on the ticket.

If the fare is constructed, the fare and tax are properly displayed when the total amount paid for the transportation and the taxes is shown both for each segment of transportation indicated on the ticket and for the sum of the segments shown.

225-mile zone. Taxable transportation is transportation by air: that begins and ends either in the United States or at any place in Canada or Mexico not more than 225 miles from the nearest point on the continental United States boundary (225-mile zone); or that is directly or indirectly from one port or station to another in the United States (if it is not a part of uninterrupted international air transportation).

Uninterrupted international air transportation means any transportation not beginning and ending either in the United States or in the 225-mile zone if there is not more than a 6-hour scheduled interval between arrival and departure at any station in the United States.

Transportation between the continental U.S. and Alaska or Hawaii is only partially taxable. Exempt from tax is the portion of the trip between the point at which the route of transportation leaves or enters the continental United States or a port or station in the 225-mile zone and the point at which it enters or leaves Hawaii or Alaska. Leaving or entering occurs when the route of the transportation passes over either the United States border or a point 3 nautical miles (3.45 statute miles) from low tide on the coast line, or when it leaves a port or station in the 225-mile zone. However, the $3 tax (discussed later) was applicable through September 1980.

Example. James Ryder purchases a ticket in the United States for transportation by air from Vancouver, Canada, to Honolulu. No part of the route followed by the carrier passes through or over any part of the continental United States. The only part of Mr. Ryder's fare subject to the tax is the fare attributable to the portion of his transportation between the 3-mile limit off the coast of Hawaii and the airport in Honolulu.

Transportation within Alaska or Hawaii. The tax on transportation of persons by air applies to the entire fare paid in the case of flights between any of the Hawaiian Islands and between any ports or stations in the Aleutian Islands or other ports or stations elsewhere in Alaska, even though parts of the flights may be over international waters or over Canada, provided there is no point on the direct line of transportation between the ports or stations that is more than 225 miles from the United States (Hawaii or Alaska).

Special exemption for military personnel. When traveling in uniform at their own expense, United States military personnel on authorized leave are exempt from the tax on the domestic portion of an international flight if they buy their tickets within 6 hours after landing at the first domestic airport and if they accept the first available accomodation of the type their tickets call for. The trip must begin or end outside the United States and the 225-mile zone.

International travel facilities use tax. The $3 tax on the use of international travel facilities expired at the end of September 1980. However, Congress was considering reinstating this tax. For more information, see Form 720 revised for quarters ending on and after December 31, 1980.

The tax imposed was on amounts paid (whether paid within or outside the United States) for international flights that began in the United States, even if the flight was the return part of a round trip to a foreign country. The $3 tax applied whenever a portion of a domestic-international flight was exempt from the transportation tax on the transportation of persons by air. Thus, the tax applied to amounts paid for such transportation by persons making flights from the continental United States to Alaska, Hawaii, Puerto Rico, and United States possessions.

Complimentary air transportation furnished solely to participants in ***package holidays*** in foreign resorts was subject to the international travel facilities use tax.

Property by air. Amounts paid (whether within or outside the United States) for transportation of property by air were subject to a 5% tax through September 30, 1980, when the tax expired. **Note:** Congress was considering reinstating this tax. For more information, see Form 720 revised for quarters ending on and after December 31, 1980.

The mere fact that aircraft such as helicopters could not use public or commercial airports in taking off and landing had no bearing on the question of liability for the tax. The tax applied only to amounts paid for transportation (including layover time and movement of aircraft in deadhead service) that began and ended in the United States. Thus, transportation of property by air that began outside, but ended within, the United States was not taxable.

Alaska and Hawaii. For transportation of property to and from Alaska and Hawaii, the tax in general did not apply to the portion of the transportation that was entirely outside the continental United States (and the 225-mile zone). But the tax on transportation of property applied to flights between ports or stations in Alaska and the Aleutian Islands (as well as between ports or stations in Hawaii), even though part of the flights may have been over international waters or over Canada, provided no point on a line drawn from where the route of transportation left the United States (Alaska) to where it reentered the United States (Alaska) was more than 225 miles from the United States (Alaska).

The person paying for taxable transportation had to pay the tax and, ordinarily, the person engaged in the business of transporting property by air for hire who received the payment had to collect the tax and file returns.

If no tax was paid with respect to a taxable payment made outside the United States, then the person furnishing the last segment of air transportation had to collect the tax from the person to whom the property was delivered in the United States.

Payments for transportation of property by air in the course of ***uninterrupted exportation*** (including to United States possessions) were not taxed. See Form 1363, *Export Exemption Certificate*.

Regular and excess baggage accompanying a passenger on an aircraft operated on an established line was not property under these rules.

Mixed load of persons and property. If a flat amount was paid for air transportation of a mixed load of persons and property, the payment had to be allocated between the amount subject to the tax on the transportation of persons and the amount subject to the tax on the transportation of property. The allocation had to be reasonable and it had to be supportable by adequate records.

Special rules on transportation taxes. In certain circumstances the taxes on transportation of persons and property by air did not always apply. If the transportation taxes did not apply, the ***aviation fuel taxes*** (discussed later under *Retail and Use Taxes*) ordinarily did apply.

Small aircraft on nonestablished lines. The taxes on transportation by air did not apply to transportation by an aircraft having a maximum certificated takeoff weight (maximum weight contained in the airworthiness certificate) of 6,000 pounds or less but only if the aircraft was ***not*** operated on an established line.

Aircraft used by affiliated corporations. The taxes on transportation by air did not apply to payments received by one member of an affiliated group of corporations from another member for services furnished in connection with the use of an aircraft. However, the aircraft had to be owned or leased by a member of the affiliated group and could not be available for hire by a nonmember of the affiliated group.

An affiliated group of corporations, for this rule, was any group of corporations connected with a common parent corporation through 80% or more stock ownership.

Certain other aircraft. For some aircraft that were used to furnish transportation services for hire only part of the time, the taxes on transportation by air applied at certain times and the aviation fuels taxes applied at other times. Thus, the transportation taxes applied when:

1) Transportation was furnished by an air taxi (with maximum certificated takeoff weight of 6,000 pounds or less), but only when the aircraft was operated on an established line; and

2) Transportation was furnished by an aircraft with maximum certificated takeoff weight of more than 6,000 pounds, but only when it was used in a business of transporting persons or property for compensation or hire.

But an aircraft used by an airline not only on scheduled flights, but also to train its own pilots and carry its executives on business flights, was considered used exclusively in commercial aviation and thus was not subject to the fuels tax.

The tax on transportation of property by air did not apply to amounts paid for crop dusting, aerial firefighting service, or use of a helicopter in construction to settle heating and air conditioning units on roofs of buildings, dismantling tower cranes, and aiding in construction of power lines and ski lifts.

Policies Issued by Foreign Insurers

A tax is imposed on the issuance of policies of insurance by foreign insurers. The rate of tax is applied on each dollar, or fraction thereof, of the premium paid and is as follows:

1) Four cents: casualty insurance and indemnity, fidelity, and surety bonds (for example, upon a premium payment of $10.10, the tax amounts to 44 cents);
2) One cent: life, sickness, and accident insurance, and annuity contract (for example, upon a premium payment of $10.10, the tax amounts to 11 cents); and
3) One cent: reinsurance policies covering any of the contracts taxable in (1) or (2).

Meaning of premium. The term premium for this purpose means the agreed price or consideration for assuming and carrying the risk or obligation, and includes any additional charge or assessment that may be payable under the contract, whether in one sum or by installments. If a policy is cancelled or amended, further premiums are subject to tax, and if premiums are refunded, the tax paid on those premiums is an overpayment that may be taken against tax due on other premiums paid, or a claim for refund may be filed.

When liability attaches. The liability for this tax attaches at the time the premium payment is transferred to the foreign insurer or reinsurer (including transfers to any bank, trust fund or similar recipient, designated by the foreign insurer or reinsurer), or to any nonresident agent, solicitor, or broker. A person may pay the tax before the liability attaches if records are kept consistent with that practice.

Duty to remit tax. The tax must be remitted by the person who makes the payment of the premium to the foreign insurer or the person's agent. This means the resident person who actually transfers the money or its equivalent to the insurer or agent.

Records. The person required to remit this tax must keep accurate records that identify each policy or instrument subject to tax. These records must clearly establish the type of policy or instrument, the gross premium paid, the identity of the insured and insurer, the total premium charged and, if the premium is to be paid in installments, the amount and anniversary date of each installment.

The records must be retained at the place of business or other convenient location for at least three years from the later of the date any part of the tax became due, or the date any part of the tax was paid. During this period the records must be readily accessible to authorized Internal Revenue Service officers or employees.

The person having control or possession of a policy or instrument subject to this tax must retain the policy for at least three years from the date any part of the tax on it was paid.

Manufacturers

If you are a manufacturer, producer, or importer, and you sell, lease, or use an article upon which the manufacturers excise tax is imposed, you are liable for the tax.

Lease considered sale. The lease of an article (including any renewal or extension of the lease) by the manufacturer, producer, or importer is generally considered a taxable sale.

Determination of sale price. To arrive at the amount on which the tax is based, the price for which an article is sold includes any charge for coverings or containers regardless of their nature, and any charge incident to placing the article in a condition packed ready for shipment.

You should exclude the manufacturers excise tax from the taxable sale price, whether or not it is stated as a separate charge.

The cost of transportation, delivery, insurance, installation, retail dealer preparation costs, and other charges you incur in placing the article in the hands of the purchaser pursuant to a bona fide sale may also be excluded from the selling price. However, you must be able to substantiate the charges by your records. On the other hand, the cost of transportation of goods to a warehouse prior to their bona fide sale is not excludable.

Discounts, rebates, and similar allowances actually granted to the purchaser may also result in adjustment of the taxable sale price.

Local advertising charges. A charge that is made separately when the article is sold and that qualifies as a charge for "local advertising" may, within certain limitations, be excluded in the determination of sale price.

Charges for warranty. A charge for a warranty of a taxable article paid at the purchaser's option is not included in the determination of sale price. However, a charge for a warranty of an article which the manufacturer, producer, or importer requires the purchaser to pay in order to obtain the article is included in the sale price on which the tax is computed.

Constructive sale price. If an article is sold by the manufacturer, producer, or importer at retail or on consignment, or if it is sold (other than through an arm's length transaction) at less than the fair market price, the tax shall be based on the price for which such articles are sold in the ordinary course of trade by manufacturers and producers of such articles. This basis for tax, where required to be made, is determined by the Commissioner.

Ordinarily, if the article is sold at retail, the tax shall be based on the lower of the price for which the article is sold, or the highest price for which such articles are sold by manufacturers or producers to wholesale distributors in the ordinary course of trade. For tractors or trucks', trailers' or semitrailers' chassis or bodies sold at retail, the tax is based on a price that is a percentage (not greater than 100%) of the actual selling price based on the highest industry price for which the articles are sold by competing manufacturers or producers in the ordinary course of trade. For retail sales of tractors or trucks', trailers' or semitrailers' chassis or bodies, this percentage is 90%. The percentage is 75% for automotive parts or accessories, fishing equipment, bows and arrows, and firearms sold at retail by manufacturers, producers, or importers who do not sell like articles to wholesale distributors. These percentages are applied to the actual sales price less actual expenses for transportation, delivery, insurance and other expenses incurred in connection with the delivery to the purchaser. If it can be shown that a lower percentage should apply to a particular segment of the industry, 90% or 75%, as the case may be, will not apply.

Intercompany sales. The constructive sale price for an article sold by a manufacturer, producer, or importer to an affiliated distributor is as follows:

1) If a manufacturer, producer, or importer regularly sells an article to an affiliated distributor that regularly sells the article to independent retailers (and not to wholesale distributors), the constructive sale price (the tax base) of the article is 90% (98½% for motor vehicles) of the lowest price for which the affiliated distributor sells the article to independent retailers in arm's length transactions.
2) If a manufacturer, producer, or importer of an article regularly sells (except for tax-free sales) only to an affiliated distributor that regularly sells (except for tax-free sales) only to retailers in an industry in which the normal method is to sell such articles in arm's length transactions to distributors, the constructive sale price for the article is the distributor's regular selling price to retailers reduced by a percentage of that selling price based on the markup on sales of similar articles by independent wholesale distributors in that industry.

If both apply (other than motor vehicles in (1)), the lower of (1) or (2) is the constructive sale price. The constructive sale price will be determined under (1) or (2) unless it can be shown that the actual price, even though lower than the constructive sale price, is the fair market value.

If a manufacturer of an article sells only to an affiliated company at less than fair market price and the affiliated company resells the article to one or more independent wholesale distributors in the ordinary course of trade, the manufacturer may elect to use a constructive sale price of 95% of the related selling company's lowest established price to the unrelated wholesale distributors. Generally, no exclusions from, or adjustments to, this constructive sale price are allowed. If this election is not made, the manufacturers tax will be imposed on the actual price at which the article was sold to the unrelated wholesale distributor. For this purpose any intercompany sale price which is less than 95% of the selling company's lowest established resale price to unrelated wholesale distributors is considered less than fair market price.

The lowest price shall be determined without requiring that any given percentage of sales be made at that price and without including any fixed amount to which the purchaser has a right as a result of contractual arrangements existing at the time of the sale.

Special rule. If as a manufacturer, producer, or importer, you sell an article to a retailer, or at retail, the tax will be based on the lower of the price at which the article is sold, or the highest price at which you sell such articles to wholesale distributors, provided the following conditions are met:

1) You must regularly sell such articles at retail, or to retailers;
2) You must regularly sell such articles to one or more wholesale distributors in arm's length transactions and establish that the wholesale prices are determined without regard to any tax benefit under this provision;
3) The transaction must be at arm's length; and
4) For manufacturers of trucks, truck-tractors, etc., if the normal method of sales within the industry is not to sell the articles at retail or to retailers.

Bonus goods. If the manufacturer gives bonus or free goods with the purchase of a certain quantity of other merchandise, the sales price must be allocated between the free goods and merchandise sold when determining the excise tax. This allocation is especially important if only one of the items is subject to excise tax or if the items are subject to different tax rates. The tax is imposed only on the sale price attributable to the taxable articles.

Example. A manufacturer sells a quantity of taxable articles and gives the purchaser certain nontaxable articles as a bonus. The sales price of the shipment is $15. The normal sales price is $20 of which $15 is attributable to the taxable articles and $5 to the nontaxable articles. Since the taxable items represent ¾ of the normal sales price, the tax is based on ¾ of the actual sales price, or $11.25 (¾ of $15). The remaining $3.75 is allocated to the nontaxable articles.

When tax attaches is dependent upon the terms of the sales contract. Generally, the tax attaches when title passes from the manufacturer to the purchaser or, when a title has not passed, upon delivery of the article for the customer's use.

Partial payments. When taxable articles are leased by you, sold conditionally, sold on installment with chattel mortgage, or sold on installment with title to pass in the future notwithstanding partial payments made, the tax that must be paid for each partial payment will be a percentage of each partial payment equal to the rate of tax in effect on the date the partial payment is due.

Uncollectible accounts. You may not take a credit or claim a refund for the tax you have paid on articles sold on open accounts that become uncollectible.

Sales exempt from tax. Sales to state and local governments, certain sales for further manufacture, sales for export, sales of certain supplies for vessels and airplanes, certain sales to the American National Red Cross, sales for the exclusive use of certain nonprofit educational organizations, and sales of articles of native indian handicraft manufactured or produced by indians, are ordinarily exempt from the manufacturers tax. For requirements as to registration or certification of sellers and purchasers and other information and instructions for applying these exemptions, as well as other transactions that may be exempt from tax, contact your Internal Revenue office.

American National Red Cross. Most items sold to the American National Red Cross for its ***exclusive use*** are exempt from manufacturers excise taxes. Coal, aircraft tires and tubes, and automobiles are ***not*** exempt.

Nonprofit educational organization. Credit or refund may be obtained only by the manufacturer for the manufacturers excise tax paid on items sold or resold to the organization for its exclusive use. The organization supports the manufacturer's claim for credit or refund of the tax paid by furnishing Form 2670, *Credit or Refund—Exemption Certificate for Use by a Nonprofit Educational Organization,* to the vendor from whom the items were purchased. The applicable amount of tax will be refunded to the person who paid it. The organization should attach to this form a statement indicating the number of items purchased that were used exclusively by the organization, the date of purchase, and the amount of tax paid. The organization must maintain records that clearly substantiate the amounts claimed for taxes paid.

Further manufacture. You may sell and purchase articles tax free for further manufacture of certain articles. If you purchase articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and sold them. Contact your Internal Revenue office for information on how to register to sell and purchase articles tax free.

Credits and refunds. You may obtain a credit or refund of manufacturers taxes paid on the sale of an article if the article is resold for certain uses or used for an exempt purpose. Questions about these exempt uses should be submitted to your Internal Revenue office.

Coal

Producers of coal from underground or surface mines in the United States are liable for the tax on the first sale or use of the coal. The tax applies to coal that is sold or used after March 31, 1978. If title to the coal passes from the producer to the purchaser after that date, the tax applies. It does not matter whether or not a contract is in effect before that time.

The tax on underground mined coal is 50 cents a ton or 2% of the sales price per ton, whichever is lower. The tax on surface mined coal is 25 cents a ton or 2% of the sales price per ton, whichever is lower.

Coal production. Coal is considered to be produced from surface mines if all geological matter (trees, earth, rock) above the coal being mined is removed before the coal is mined. When coal is removed by auger, the coal is treated as if it were produced from a surface mine. Coal is treated as if it were produced from an underground mine when the coal is not produced from a surface mine. In some cases, a single mine may be yielding coal at the same time from surface mining and from underground mining. The determination of whether the coal is from a surface mine or an underground mine must be made for each ton of coal produced and not on a mine by mine basis.

Payment of tax. The tax on coal is paid by the producer at the time of sale or use. In determining the selling price for applying the tax, the point of sale is f.o.b. mine or f.o.b. cleaning plant if the producer cleans the coal before selling it. Coal used by the producer means used by the producer in other than the mining process; for example, when the coal is used as a fuel or as an ingredient in making coke. The constructive selling price for coal used by the producer is based on sales of coal by the producer or other producers made f.o.b. mine or f.o.b. cleaning plant.

Blending. A producer who blends surface mined coal with underground mined coal during the cleaning process must figure the excise tax on the sale of the blended, cleaned coal. But the tax must be figured separately for each type of coal in the blend. If the producer can determine the proportion of each type of coal contained in the final blend, the tax is based on the amount of each type in the blend. If the producer cannot determine the proportion of each type of coal in the blend, the tax is based on the ratio of each type originally input in the cleaning process. However, the tax is limited to 2% of the sales price per ton of the blended coal.

Exemption from tax. Lignite coal and imported coal are exempt from the tax. There is no exemption from the tax for sales for further manufacture, for export, for use as supplies for vessels or aircraft, for the use of a state or

local government, for the use of the United States government, or for the use of a nonprofit educational organization.

Trucks and Related Items

A tax of 10% is imposed on the following articles including related parts and accessories sold by the manufacturer, producer or importer:

1) Truck chassis and bodies;
2) Truck trailer and semitrailer chassis and bodies; and
3) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A sale of a truck, truck trailer or semitrailer is considered a sale of a chassis and a body.

Special exemption for light-duty trucks. The tax does not apply to the sale of truck chassis and bodies suitable for use with light-duty vehicles. Neither does the tax apply to truck trailer or semitrailer chassis and bodies suitable for use with a light-duty trailer or semitrailer which is suitable for use with a light-duty towing vehicle. Suitable for use in this context means that the article is ordinarily so used or that it possesses actual, practical, and commercial fitness for such use. A light-duty vehicle is one having a gross vehicle weight of 10,000 pounds or less.

Gross vehicle weight is defined as the maximum total weight of a loaded vehicle. The maximum total weight is the gross vehicle weight rating of the article as specified or established by the manufacturer of the completed article, unless the rating is unreasonable in light of the facts and circumstances in a particular case.

If you are a manufacturer, you must maintain a record of the gross vehicle weight rating of each light-duty truck, trailer, or semitrailer sold by you subject to this exclusion for light-duty trucks. A record of the serial number of the vehicle sold will satisfy this requirement if the rating is indicated by the serial number. The manufacturer's gross vehicle weight rating must take into account the strength of the chassis frame, the axle capacity and placement, and spring, brake, rim, and tire capacities. The component with the lowest weight rating will ordinarily be determinative of the gross vehicle weight. However, if the capacity of any of the readily attachable components (springs, brakes, tires, or rims) would otherwise be determinative of a gross vehicle weight rating of 10,000 pounds or less, no such component will be taken into account in determining such rating, unless the rating of the chassis frame or sum of the axle ratings is 12,000 pounds or less. The total axle ratings is the sum of the maximum load carrying capability (capacity and placement) of the axles (without regard to rims, tires, springs, and brakes) and, in the case of a trailer or semitrailer, the total of the axle ratings includes the weight, if any, which is to be borne by the vehicle used in connection with it.

Separate sale of chassis and body. Since truck chassis and truck bodies are frequently sold separately by their respective manufacturers, the light-duty truck exemption applies to a chassis or body that is suitable for use with a vehicle having a gross weight of 10,000 pounds or less. This means that if a truck chassis manufacturer sells a chassis suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less, the chassis will be exempt from tax regardless of the body mounted on it.

Truck parts and accessories. A tax of 8% is imposed on the sales of parts and accessories (other than tires and inner tubes) for trucks. This tax applies to the separate sales of such articles, but not to articles sold by the manufacturer of a vehicle, on or in connection with the vehicle. But this tax does not apply to articles suitable for use (and ordinarily used) on or with a passenger car, trailer, or a house trailer. Parts and accessories made by light-duty truck manufacturers are considered suitable for use on passenger cars if they are comparable to parts and accessories of other manufacturers that are interchangeably (and ordinarily) used in their trucks and passenger cars.

Parts and accessories are exempt from the 8% tax when sold by a manufacturer, producer or importer to a purchaser for resale on or in connection with the first retail sale of a light-duty truck. The exemption also applies when the first purchaser resells the parts to a second purchaser on or in connection with the first retail sale of a light-duty truck.

Articles Exempt From or Not Subject to Tax

The tax on motor vehicles does not apply to the following articles:

Passenger automobiles.

Motorcycles.

Snowmobiles designed for use on snow slopes, snow trails, etc.

Bus chassis and bus bodies.

Parts or accessories sold for use by the purchaser on or in connection with a bus.

Refuse containers. Any box, container, receptacle, bin or similar article used as a trash container which is:

1) Not designed to transport freight other than trash, and
2) Not designed to be permanently mounted or permanently affixed to a truck chassis or body.

Component parts and accessories sold with a refuse container are also exempt.

House trailers (regardless of size) suitable for use in connection with either passenger automobiles or trucks.

Camper coaches or bodies for self-propelled mobile homes designed to be mounted or placed on trucks, truck chassis, or automobile chassis and to be used primarily as living quarters or camping accommodations on and off the trucks. This exemption does not apply to the chassis upon which the mobile home body is mounted.

Farm feed, seed, and fertilizer equipment primarily designed to process or prepare, haul, spread, load or unload feed, seed, or fertilizer to or on farms. This exemption applies only to the farm equipment body (and parts and accessories) and not to the chassis upon which the farm equipment is mounted.

Ambulances, hearses, and combination ambulance-hearses.

Truck-tractors specifically designed for use in shifting semitrailers in and around freight yards and freight terminals.

Used parts incorporated in a new truck are excluded from the tax base of the truck, at their value, if the part is furnished by the first user of the truck and the part has been previously used.

Rebuilt truck parts or accessories are exempt from tax when sold or used by the rebuilder.

Concrete mixers designed to be mounted on a truck, truck trailer, or semitrailer chassis to be used to process or prepare concrete. Also exempt are parts or accessories designed primarily for use on or in connection with these concrete mixers.

Fishing Equipment

A tax of 10% of the sales price is imposed on fishing rods, creels, reels, artificial lures, baits, and flies, sold by manufacturers, producers, or importers, including any parts or accessories sold on or in connection therewith.

Bows and Arrows

A tax of 11% of the sales price is imposed on the sale by the manufacturer, producer, or importer of any bow having a draw weight of 10 pounds or more, and of any arrow measuring 18 inches or more in overall length.

The tax is also imposed at the same rate on the manufacturers' or importers' sale of any part or accessory suitable for inclusion in, or attachment to, a taxable bow or arrow and on a quiver suitable for use with taxable arrows.

Exemption for Indians. Native bows and arrows (or their parts and accessories) manufactured by Indians on reservations, in Indian schools, or under U.S. jurisdiction in Alaska are not subject to this tax.

Firearms

A federal excise tax of 10% is imposed on the sales price of pistols and revolvers sold by manufacturers, producers, or importers. A tax of 11% is imposed on the sales price of shells and cartridges, and firearms, other than pistols and revolvers. The manufacturer, producer, or importer of firearms, shells, and car-

tridges is liable for the manufacturers excise tax, which applies to the sale price of the article sold.

In the case of an importer, the tax attaches to the sales of used or antique firearms as well as to new firearms. An individual, who purchases a foreign made firearm from a foreign producer in a transaction handled through a licensed importer, is treated as the importer and is subject to this tax. However, the tax does not attach where an individual incidentally imports a firearm for personal use or causes a taxable firearm to be imported for personal use.

The tax extends to the sales of firearms produced from component parts by a dealer who engages in the business of assembling firearms in quantity for sale or distribution in interstate or foreign commerce. The dealer must be licensed as a manufacturer of firearms under the Gun Control Act of 1968.

Firearms manufactured for their appeal as replicas, but which can be readily modified for actual firing, are subject to the tax.

Parts and accessories. The excise tax does not apply to the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately, or when sold with a complete firearm as spare parts or accessories. Thus, no tax attaches to the sale of telescopic mounts, rubber recoil pads, rifle sights, and similar parts for firearms. The tax ***does attach*** to the sales of complete firearms, pistols, revolvers, shells, and cartridges, or to sales of such articles which, although in knockdown condition, are complete as to all component parts.

Sales to the military of firearms, pistols, revolvers, shells, and cartridges are exempt from excise tax.

Firearms include all portable weapons such as rifles, carbines, machine guns, shotguns, and fowling pieces from which a shot, bullet, or projectile may be discharged by an explosive. Antique firearms are subject to the excise tax.

Firearms do not include:

1) Pistols designed solely for firing blank cartridges that are not capable of discharging a shot, bullet, or projectile of any type;
2) Air pistols and rifles that do not use an explosive to discharge projectiles; and
3) Spear guns for underwater deep-sea fishing that are powered by rubber bands or rubber tubes rather than explosives.

Pistols include short barrel, small projectile firearms that have a short one-hand stock at an angle to the line of bore, and are designed, made and intended to be aimed and fired with one hand. The term does not include gadget devices, guns altered to resemble pistols, or small portable guns such as one-hand stock guns that fire shotgun or rifle ammunition.

Revolvers include pistol type, small projectile firearms with a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

Shells and cartridges include all combinations of projectile, explosive, and container that are designed, assembled, and ready, without further manufacture, for use in portable firearms, including pistols and revolvers.

Blank ammunition, such as that used by sports officials to start races, is taxable if it is suitable for use with taxable firearms.

Manufacturers of firearms, shells, and cartridges are not liable for the tax on shells and cartridges they use in testing their own firearms or sell to other manufacturers of firearms for testing purposes.

The reloading of used shells and cartridges is a manufacturing operation and the sale by the reloader is subject to the excise tax, except in the case of custom reloading. Where the reloader merely reloads shells or cartridges belonging to a customer and is paid for labor and materials expended in performing such reloading services, there is not a taxable sale of reloaded shells as such. In the latter case, there must be a return to the customer of the identical shells tendered by the customer for reloading. If, instead of a return of the identical shells, an equivalent number is drawn from the inventory of the reloader, the transaction is regarded as a taxable sale of reloaded shells on an exchange basis and the person reloading the shells is liable for the tax.

Gasoline

Every person subject to tax on gasoline must register with the District Director of Internal Revenue before entering into a transaction for which any tax liability will be incurred.

Tax rate. A tax of 4 cents a gallon is applied to gasoline sold by any producer or importer.

Gasoline means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. This definition does not include casinghead and natural gasoline unless they are blended with other compounds to make gasoline used in motors.

A producer includes a refiner, compounder, or blender, a wholesale distributor, and a dealer selling gasoline exclusively to producers of gasoline, as well as actual producers.

Gasohol is exempt from the manufacturers excise tax. It can be made by blending alcohol with gasoline. The blend must be at least 10% of 190 proof alcohol, determined without regard to any added denaturants. The alcohol can be either methanol or ethanol, but it cannot be produced from petroleum, natural gas, or coal.

Gasoline sold in bulk quantities for delivery in a bulk storage tank of a qualified producer for use in making qualified gasohol is also exempt. A ***qualified producer*** is any person who in the ordinary course of a trade or business regularly buys gasoline and alcohol in bulk quantities for blending qualified gasohol to be used in the trade or business or to be resold.

Qualified producers can register to purchase gasoline tax free by filing Form 637, *Registration for Tax-Free Transactions Under Chapter 32 of the Internal Revenue Code*, with the District Director of Internal Revenue for the district in which their principal place of business is located.

Later separation or failure to blend. The gasoline will be treated as a taxed sale if it is later separated from the mixture or is not blended.

Alcohol

An income tax credit applies to alcohol that is sold or used as a fuel. It applies both to straight alcohol and to alcohol that is mixed with other fuels. Only a trade or business may take this credit.

If, after it is sold, the straight alcohol or alcohol mixture is not used as a fuel, the person who is responsible for it not being used as a fuel must pay an excise tax equal to the credit. The tax only applies to alcohol that was eligible for the credit.

Rate. The tax is 40 cents a gallon for each gallon of alcohol that is at least 190 proof and 30 cents for each gallon of alcohol that is at least 150 proof but less than 190 proof.

Straight alcohol. The tax is imposed on the person who mixes the straight alcohol or does not use it as a fuel.

Alcohol mixture. The tax is imposed on the person who separates the alcohol from the mixture or does not use the mixture as a fuel.

Information. For more information on the alcohol fuel credit, see Form 6478, *Credit for Alcohol Used as Fuel.*

Lubricating Oil

Every person subject to tax on lubricating oils other than cutting oils must register with the District Director before entering into a transaction for which any tax liability will be incurred.

Tax rate. A tax of 6 cents a gallon is applicable on the sale of lubricating oils (other than cutting oils) sold by manufacturers and producers. Lubricating oil may be sold tax free by the manufacturer if it has been determined by the Commissioner of Internal Revenue to be seldom used as a lubricant, but used almost exclusively for nonlubricating purposes.

Cutting oils include oils sold for use in cutting and machining operations on metals, such as in drawing, rolling, shearing, punching, stamping, and certain forging operations.

Rerefined lubricating oil. Lubricating oil is exempt from the tax for oil sold by a producer

to another producer for use in mixing with re-refined oil (that is, oil of which more than 25% is used or waste lubricating oil that has been cleaned, renovated, or rerefined). All of the new oil in a mixture is exempt from the tax if the blend contains 55% or less of new oil. If the mixture contains more than 55% new oil, the exemption applies only to the portion of the new oil that does not exceed 55% of the mixture.

Tires, Tubes, and Tread Rubber

Tires and tubes. The following articles, if wholly or in part of rubber, sold by a manufacturer, producer, or importer, are taxed as follows:

Tires of the type used on highway vehicles, including certain motorcycles, and certain minibikes, 10 cents a pound.

Original equipment tires and inner tubes, (other than bicycle tires and inner tubes) on nontaxable imported vehicles, equipment, and implements, 10 cents a pound for the type on highway vehicles; for other tires, 5 cents a pound.

Other tires except certain laminated tires, 5 cents a pound.

Laminated tires not of the type used on highway vehicles, 1 cent a pound.

Inner tubes for tires, 10 cents a pound.

Tread rubber, 5 cents a pound.

Determination of weight. Weight shall be based on total weight exclusive of metal rims or rim bases in the case of tires.

Manufacturer's retail stores. In the case of manufacturer-owned or importer-owned retail stores, the excise tax on tires and inner tubes is imposed at the time these articles are delivered to the stores, rather than at the time of sale.

Articles not subject to tax. The tax does not apply to the following articles:

Tires that are not more than 20 inches in diameter and not more than 1¾ inches in cross-section, if constructed of all rubber (whether hollow center or solid), without fabric or metal reinforcement.

Tires of extruded tiring with an internal wire fastening agent.

Tires manufactured with a thermoplastic substance known commercially as polyethylene.

Recapped or retreaded tires, unless there has been a bead-to-bead recapping or retreading, if such tires have been sold previously in the United States.

Bicycle tires and tubes sold for use, or used, in the manufacture of new bicycles.

Tire carcasses not suitable for commercial use.

Tread rubber exempt in certain cases. The tax on tread rubber does not apply when sold to any person for use other than in the recapping or retreading of tires of the type used on highway vehicles.

Tires, tubes, and tread rubber used on qualifying intercity, local, or school buses.

Fuel Economy

A federal excise tax is imposed on the sale of 1980 and later model year automobiles of a model type that does not meet fuel economy standards set by the Environmental Protection Agency. The tax is computed on Form 6197, *Fuel Economy Tax*, which is attached to Form 720.

Retail and Use Taxes

The following discussion covers excise tax on the retail sale or use of diesel fuel, special motor fuel, fuel used in noncommercial aviation, and fuel used in commercial transportation on inland waterways.

Diesel and Special Motor Fuels

A tax of 4 cents a gallon is imposed on ***diesel fuel*** if it is sold to an owner, lessee, or other operator for use as a fuel in a ***diesel powered highway vehicle***; or acquired in any manner other than through a taxable sale and used as fuel for a diesel powered highway vehicle.

A tax of 4 cents a gallon is imposed on ***special motor fuel*** if it is sold to an owner, lessee, or other operator for use as a fuel for the propulsion of a ***motor vehicle or motorboat***; or acquired in any manner other than through a taxable sale and used as fuel for a motor vehicle or motorboat.

Special motor fuels include such products as benzol, benzene, naphtha, liquid petroleum gas, casinghead and natural gasoline, and any other liquid (except gasoline otherwise taxable and kerosene, gas oil, and fuel oil) when sold for use in or used in motor vehicles. Products called kerosene, gas oil, or fuel oil that do not meet certain specifications are taxable if they are sold for use in a motor vehicle or motorboat.

Gasohol. Gasohol is exempt from the retail excise tax. It can be made by blending alcohol with diesel fuel, special motor fuel, or noncommercial aviation fuel. The blend must be at least 10% of 190 proof alcohol, determined without regard to any added denaturants. The alcohol can be either methanol or ethanol, but it cannot be produced from petroleum, natural gas, or coal.

Diesel fuel, special motor fuel or noncommercial aviation fuels sold in bulk quantities for delivery into a bulk storage tank of a qualified producer for use in making qualified gasohol is also exempt from the retailer tax. A ***qualified producer*** is any person who in the ordinary course of a trade or business regularly buys diesel fuel, special motor fuel, or noncommercial aviation fuels and alcohol in bulk quantities for blending qualified gasohol to be used in the trade or business or to be resold.

Qualified producers can register to purchase diesel fuel or special motor fuels tax free by filing Form 637, *Registration for Tax-Free Transactions Under Chapter 32 of the Internal Revenue Code*, with the District Director of Internal Revenue for the district in which their principal place of business is located.

Later separation or failure to blend. The diesel or special motor fuel will be treated as a taxed sale if it is later separated from the mixture or is not blended.

A diesel powered highway vehicle is any vehicle that is moved by its own motor and designed to transport a load over public highways (whether or not also designed to perform other functions).

Generally, there are three types of vehicles that are not considered diesel powered highway vehicles: specially designed mobile machinery for nontransportation functions, vehicles specially designed for off-highway transportation, and trailers and semitrailers designed for nontransportation functions off the public highways.

Motor vehicle. The term motor vehicle includes all types of vehicles propelled by motor and designed for carrying or towing loads from one place to another, regardless of the type of load and material carried or towed and whether or not the vehicle is required to be registered for highway use, such as forklift trucks or industrial tractors used to carry or tow loads at railroad stations, industrial plants, and warehouses.

It does not include farm tractors, trench diggers, power shovels, bulldozers, road graders or rollers, and similar equipment that does not carry or tow a load; nor does it include any vehicle that moves exclusively on rails.

Nonhighway use. If diesel fuel is used in a diesel powered highway vehicle not required to be registered for highway use under the laws of any state or foreign country, a 2 cents a gallon tax rate applies. If special fuels are sold for business use as fuel in motor vehicles other than highway vehicles registered or required to be registered for highway use, the tax is 2 cents a gallon rather than 4 cents a gallon.

The 2 cents a gallon tax also applies to diesel fuel sold for use in diesel powered highway vehicles owned by the United States and not used on the highways.

The tax is payable, ordinarily, by the person making the sale of diesel fuel or special motor fuels.

American National Red Cross. Sales to the American National Red Cross for its ***exclusive use*** are exempt from the tax on diesel or special motor fuels.

Nonprofit educational organizations are exempt from the tax on diesel fuel or special fuels used only by them. To claim this exemption, the organization must complete Form 2670 and furnish it to the vendor of the fuel.

Exceptions. If a dealer delivers fuel tax free to your storage tank for your use as a heating fuel, and you later use the fuel in a registered highway vehicle, you must pay the tax of 4 cents a gallon to the Internal Revenue Service.

If you buy fuel for use in a vehicle that is not required to be registered for highway use and on which the dealer pays tax at the 2 cent rate, and you later use the fuel in a registered highway vehicle, you must file a return and pay the additional 2 cents a gallon tax, even though the vehicle is seldom or never used on the highway.

If you acquire fuel in any manner other than a taxable sale and use it in a motor vehicle or motorboat, you must file a return and pay the tax at the rate that applies to your use of the fuel.

Fuel Used on Inland Waterways

A tax is imposed on any liquid fuel used in the propulsion system of commercial transportation vessels while traveling on certain inland and intracoastal waterways. The tax, which became effective October 1, 1980, is 4 cents a gallon before October 1, 1981, and 6 cents a gallon after September 30, 1981. It is in addition to all other taxes imposed on the sale or use of fuel. The tax generally applies to all types of vessels including ships, barges, and tugboats.

The person who operates the vessel in which the fuel is consumed is the user and must file returns and pay the tax. The person liable may include the United States, a state, a political subdivision, or any of their agencies or instrumentalities.

The tax is payable quarterly. It is imposed on liquid fuel actually consumed by a vessel's propulsion engine, not on fuel put into a vessel's tank and not consumed.

Liquid fuel includes diesel fuel, bunker C residual fuel oil, special motor fuel, or gasoline.

Commercial waterway transportation is the use of a vessel in the business of transporting property for compensation or hire, or the use of a vessel to transport property in the business of the owner, lessee, or operator of the vessel, whether or not a fee is charged. The operation of all vessels meeting either of these requirements (except certain fishing vessels) is commercial waterway transportation regardless of whether the vessel is actually transporting property on a particular voyage. Thus, the tax may be imposed on vessels while moving without cargo, while awaiting passage through locks, while moving to or from a repair facility, and while maneuvering around loading and unloading docks.

Fishing vessels exception. A vessel is not transporting property in the business of the owner, lessee, or operator by merely transporting fish or other aquatic animal life on the voyage. The tax does not apply to fuel used by a fishing vessel while traveling to a fishing site, while engaged in fishing, or while returning from the fishing site with its catch. However, it does apply to fuel used by a commercial vessel along the taxable waterways while traveling to pick up aquatic animal life caught by another vessel and while transporting the catch of that other vessel.

Inland and intracoastal waterways on which fuel consumption is subject to tax are listed in the Inland Waterways Revenue Act of 1978.

Dual use of liquid fuels. The tax on fuel used in commercial waterway transportation applies to all taxable liquid used as a fuel in the propulsion of the vessel, regardless of whether the engine (or other propulsion system) is used for another purpose. It does not apply to fuel consumed in an engine that does not generate propulsion of a vessel. Where the propulsion engine operates special equipment by means of a power take-off or power transfer, the tax applies to all liquid fuel consumed by that engine. For example, the fuel is taxable when used in the engine operating an alternator, generator, or pumps, if that engine is also propelling the vessel.

If the liquid fuel consumed by a nonpropulsion engine is drawn from the same tank as fuel consumed by a propulsion engine, a reasonable determination of the quantity of fuel used in the nonpropulsion engine will be acceptable for excluding from taxation a portion of the fuel consumed by the vessel. This determination may be based primarily on the operating experience of the person using the fuel, but the taxpayer must keep records that will support the allocation used.

Voyages crossing boundaries of the taxable waterways. Fuel consumed by a vessel crossing the boundaries of the waterways specified as taxable is taxable only to the extent of fuel consumed for propulsion within those waterways. Generally, the operator may figure the amount of fuel so used during a particular voyage by multiplying total fuel consumed in the propulsion engine by a fraction. The numerator of the fraction is the time spent operating on the specified waterways, and the denominator is the total time spent on the voyage. This calculation may not be used where it is found to be unreasonable.

Exceptions. Certain types of commercial waterway transportation are excluded from the tax.

A deep-draft ocean-going vessel is excluded if the vessel was designed primarily for use on the high seas and if it has a draft of more than 12 feet on the voyage for which the fuel tax exclusion is sought. A separate determination of draft must be made for each voyage when the vessel has its greatest load of cargo and fuel. A voyage is a round trip. Therefore, if a vessel travels into the designated waterway system to pick up cargo and has a draft sufficient to qualify for the exclusion when loaded, the vessel will satisfy the 12 foot draft requirement for the entire voyage.

Commercial passenger vessels. Fuel consumed by vessels used primarily for the transportation of persons is not taxable. Thus, commercial passenger vessels, while being operated as passenger vessels, are not subject to the tax, even if they in fact transport property in addition to transporting passengers. Likewise, fuel used in ferryboats carrying passengers is not subject to the tax, even if the ferryboats carry the passengers' cars.

State or local governments. No tax is imposed if a vessel using fuel is being operated by a state or local government in transporting property in the state or local government's business. The ultimate use of the cargo must be for a function that is ordinarily carried out by governmental units.

Ocean-going barges. The tax does not apply to fuel consumed by tugs that are used in moving exclusively LASH and SEABEE ocean-going barges released by ocean-going carriers solely to pick up or deliver international cargoes. There is no exclusion when:

1) One or more of the barges in the tow is not a LASH barge, SEABEE barge, or other ocean-going barge carried aboard an ocean-going vessel; or
2) One or more of the barges is not on an international voyage; or
3) Part of the cargo carried is not being transported internationally.

Records required. All operators of vessels used in commercial waterway transportation who acquire liquid fuel must keep adequate records of all fuel used for taxable purposes. Operators who are seeking an exclusion from the tax must keep records that will support any exclusion claimed.

Aviation Fuels

A tax applied to aviation fuels sold to an owner, lessee, or other operator of an aircraft for use as fuel in that aircraft in noncommercial aviation or, if there was no sale, used as a fuel in an aircraft in noncommercial aviation. **Note:** This tax expired at the end of September 1980, but may be reinstated by Congress. For more information, see Form 720 revised for quarters ending on and after December 31, 1980.

The tax applied to all types of aircraft, including helicopters, provided all other conditions of liability were present even if the aircraft did not use public or commercial airports. The rates at which the tax applied were as follows:

1) Seven cents a gallon on special fuels (including jet fuels); and
2) Three cents a gallon for gasoline in addition to the regular 4 cents a gallon manufacturers tax on gasoline.

Additional tax would be due if a lesser tax was paid on the purchase of fuels later used in noncommercial aviation.

Gasohol. For noncommercial aviation fuels used in making gasohol, see *Gasohol* under *Diesel and Special Motor Fuels.*

Noncommercial aviation means use of an aircraft other than in a business of transporting persons or property for compensation or hire by air. Also, noncommercial aviation is de-

fined to include the following two uses even though they are in a business of transporting persons or property for compensation or hire by air:

1) Transportation by an aircraft having maximum certificated takeoff weight (maximum weight in type or airworthiness certificate) of 6,000 pounds or less and not operated on an established line; and
2) Certain transportation that is furnished by one member to another member of an affiliated group of corporations.

Commercial aviation. The fuels taxes did not apply if an aircraft was used in commercial aviation. However, the transportation taxes did apply.

Aviation fuels taxes were ordinarily payable by the seller. Taxable fuels were those that the seller delivered into an aircraft's supply tank. These fuels could be sold tax free only if the seller and, in most cases, the purchaser were registered with the Internal Revenue Service for tax-free sales and purchases. Form 637A, *Registration for Tax-Free Sales and Purchases of Fuel Used in Aircraft,* was used for this purpose. In addition, in most cases each tax-free sale had to be supported by a separate exemption certificate. However, if a purchaser reasonably expected that 90% or more of the fuel that was to be used in the purchaser's aircraft during a specified period (not to exceed 12 calendar quarters) would be used in other than noncommercial aviation, the purchaser could furnish each supplier an exemption certificate covering all purchases for this period.

Aviation fuels were to be sold tax free (except for the regular 4 cents a gallon manufacturers tax on gasoline) if not delivered into a fuel supply tank of an aircraft unless the purchaser paid, or agreed to pay, the tax to the seller. A receipt that separately stated the tax was to be furnished to, and retained by, the purchaser.

A retailer could not prepay the aviation fuel tax on fuel that was to be resold to owners, lessees, or other operators of aircraft used in noncommercial aviation.

The following are examples of taxable and nontaxable uses of aviation fuels.

Preflight testing of an aircraft. Fuel used by a company in the preflight testing of a new aircraft or an aircraft being repaired was not subject to the aviation fuels taxes.

Test flights. Fuel used by a company for the flight testing of a new aircraft before acceptance by a customer or an aircraft being repaired for a customer was considered used in noncommercial aviation and was subject to the fuels taxes.

First tank fill-up. If the manufacturer provided a first tank fill-up of fuel with the delivery of a new aircraft, the fuel was subject to the fuels taxes if the aircraft was used in noncommercial aviation. However, if the aircraft was used in commercial aviation, the fuel was not subject to the fuels taxes.

Windfall Profit

There is a federal excise tax on the windfall profit of domestically produced crude oil. Although the producer of the oil must pay the tax, the first purchaser of the oil must generally deduct and withhold the tax from the purchase price of the oil and deposit it.

Quarterly return. The tax is figured on Form 6047, *Windfall Profit Tax,* which must be attached to Form 720 for each quarter you have this tax. This quarterly return is filed by:

1) Purchasers of taxable oil who are required to deduct and withhold the tax;
2) Operators who choose to deduct and withhold the tax; and
3) Producers of oil on which no withholding is required.

Annual return. Each producer of crude oil who did not have enough tax withheld during the calendar year must file an annual return. This return must be filed by the last day of May following the end of the calendar year.

Producers will receive Form 6248, *Annual Information Return of Windfall Profit Tax,* from their purchasers at the end of each year. The form shows the total amount of tax due for the year, the amount of tax withheld by the purchaser, and the amount of tax that was underwithheld, or overwithheld, if any.

Producers should combine the amounts shown on all the Forms 6248 they receive from their purchasers. If the net result is an underwithholding of tax, the producer must file Form 720 to report and pay the balance due. The amount due should be entered on the annual return line of Form 720. If the result of combining all the Forms 6248 is an overwithholding of tax, see the instructions to Form 6249, *Computation of Overpaid Windfall Profit Tax.*

General Information

You must file a return for each quarter if the rules in this publication apply to you, whether or not you incur any liability in the quarter. If your return for the quarter shows no tax to be due, ***none*** should be entered on the line where you would normally enter the tax. Unless you indicate that no tax is due, you are not considered to have filed a return.

Returns may be due monthly or semimonthly. If you do not make deposits as required for these taxes, your District Director of the Internal Revenue may require you to file your returns on a monthly or semimonthly basis instead of quarterly.

Payment of tax. Excise taxes are due and payable without assessment or notice. Therefore, unless you are required to make deposits of taxes, as discussed later, full payment for the quarterly tax should be attached to your return when filed. The payment may be made by cash, check, or money order. You should write on your check or money order your employer identification number, the class of tax, and the period covered by the payment. However, if this payment exceeds $100, see the *Special requirement,* discussed later.

The following rules explain how often you must make deposits for excise taxes other than the windfall profit tax. For special rules on depositing the windfall profit tax, see the instructions for Form 6047.

Monthly deposits. If you are liable in the first or second month of a calendar quarter for more than $100 for all taxes listed on Form 720, you must deposit these taxes with a Federal Reserve bank or other authorized depositary. This deposit must be made on or before the last day of the month following the month in which the liability is incurred. You may make deposits of $100 or less for any month during the quarter. However, see the *Special requirement,* discussed later.

Semimonthly deposits must be made if the liability for all taxes reportable on Form 720 exceeded $2,000 for any month in the previous calendar quarter.

A semimonthly period consists of the first 15 days of a month or the 16th day through the end of a month.

If you compute your liability for communication and air transportation excise tax on the basis of ***amounts billed*** (communication tax) or tickets sold (transportation of persons by air), the tax computed for a monthly period is considered as collected during the succeeding month, and the tax computed for a semimonthly period is considered as collected during the second succeeding semimonthly period. You must notify the Internal Revenue Service before you change from one method of computing the tax to another, so that proper adjustment may be made in order to reflect your excise tax liability.

The due date for semimonthly deposits on ***communication*** and ***air transportation*** excise taxes is 3 banking days after the close of the semimonthly period for which the taxes were collected.

Semimonthly deposits of excise tax on ***foreign insurance policies*** are due on the first day of the month for the first half of the preceding month, and the 15th day of the month for the last half of the preceding month.

All semimonthly deposits of excise taxes (except communications, air transportation, and foreign insurance policies) are due on the 9th day of the month for the last half of the preceding month and the 24th day of the month for the first half of the current month.

For the exact due date of all excise taxes except for the windfall profit tax, see Publication 509, *Tax Calendar for 1981.*

All deposits of excise taxes must be accompanied by Form 504, *Federal Tax Deposit-Excise Taxes* and deposited in accordance with the instructions on the back of this form.

Special requirement. If you are required to file a quarterly excise tax return on Form 720 and your total liability for taxes reportable on that form exceeds the total deposited for that quarter by more than $100, you ***must*** deposit

with an authorized financial institution or a Federal Reserve bank, on or before the last day of the month following that quarter, the full amount by which your total liability exceeds the amount previously deposited for the quarter. See *Penalties and Interest*.

This applies to ***Manufacturers*** and ***Retailers*** excise taxes. For ***Communications*** and ***Transportation by Air*** excise taxes, the deposit must be made on or before the last day of the second month following the quarter.

Quarterly returns of all excise taxes other than those for communications, transportation by air, and windfall profits must be filed on or before the following due dates:

Quarter Covered	Due dates*
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

But, if you make timely deposits in full payment of the taxes due for the entire calendar quarter, you may file your return on or before the 10th day of the second month following the period for which it is made.

Quarterly returns for excise taxes on communications, transportation by air, and windfall profits are due as follows:

Quarter Covered	Due dates*
January, February, March	May 31
April, May, June	August 31
July, August, September	November 30
October, November, December	February 28

*If any due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next succeeding day that is not a Saturday, Sunday, or legal holiday.

If you must file a Form 720 for excise taxes on communications, transportation by air, or windfall profits as well as for other excise taxes, the due date for your return is the latest due date that applies to any of the taxes. However, in order to use the later date, you must have made deposits in full and on time for the taxes that have the earlier due date.

Overpayment of excise tax on any quarterly return may, subject to statutory limitation, be refunded to you or applied as a credit to any later Form 720 by checking the appropriate block in item 8 of your return, or may be made the subject of a separate claim for refund on Form 843, *Claim*. Ordinarily, a credit may be taken for any tax reported on Form 720 to correct mathematical errors or to adjust payments of tax on transactions, charges, or processings that are entitled to be made tax free.

An overdeposit of excise tax for a semimonthly period may be applied to reduce the excise tax required to be deposited for a later semimonthly period.

Your records should be maintained at your principal place of business or some other convenient location. They must be accurate for all transactions, and duplicate copies of Form 720 previously filed should be kept.

Additional information is provided in the instructions on Form 720.

Penalties and Interest

You can avoid penalties and interest by correctly filing, depositing and paying tax when due. The law provides a penalty of from 5% to 25% of the tax for late filing unless ***reasonable cause*** is shown for the delay. If you are late filing a return or depositing tax, send a full explanation with the return. Penalties are provided for willful failure to collect and pay tax, keep records, file returns, and for filing false or fraudulent returns. Interest is assessed at the applicable rate from the due date to the date that the taxes are actually paid.

Penalties are also provided for late payment of tax and for not depositing the proper amount of tax when due. Neither penalty applies if you can show reasonable cause for failure to pay or to deposit when due.

Taxes not deposited when due. The penalty for failure to make deposits when due is 5% of the amount of the underpayment, without regard to how long the underpayment continues.

Taxes not paid when due. The penalty for failure to pay taxes when due is ½ of 1% of the unpaid amount for each month or part of a month it remains unpaid—***up to 25% of the unpaid amount.*** The penalty applies to any unpaid tax shown on a return. It also applies to any portion of additional tax shown on a bill if it is not paid within 10 days from the date of the bill. This penalty is in addition to the interest charge on late payments.

The penalty for failure to deposit excise taxes when due applies only to taxes reportable on Form 720. The other interest and penalty provisions discussed here apply to all excise taxes.

Examination and Appeal Procedures

If your excise tax return is examined and you disagree with the findings of this examination, you may find information on audit and appeal procedures in Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*. An unagreed excise tax case, except with respect to private foundations, differs from other tax cases in that it may only be contested by the payment of the tax and by filing a suit for a refund in the United States District Court or the United States Court of Claims.